

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

C. EARL GRANT,

Plaintiff,

vs.

Civil Action No.
7:07-cv-00996
(TJM-GJD)

NATIONAL BOARD OF MEDICAL EXAMINERS and
FEDERATION OF STATES MEDICAL BOARD,

Defendants.

**NOTIFICATION OF THE CONSEQUENCES OF FAILING TO RESPOND
TO A SUMMARY JUDGMENT MOTION**

PLEASE TAKE NOTICE that on December 5, 2008, National Board of Medical Examiners and Federation of State Medical Boards filed a cross motion for summary judgment in the above-referenced action. A motion for summary judgment seeks dismissal of some or all of the claims you have asserted in your complaint.

YOU ARE HEREBY ADVISED that any factual assertions in the defendants' affidavits will be taken as true by the District Court unless you contradict these assertions in affidavit form.¹

¹ Rule 56(e) of the Federal Rules of Civil Procedure governs the form of affidavits. It states "[s]upporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits. When a motion for summary judgment is made and supported as provided by this rule, an adverse party may not rest on the mere allegations or denials of the adverse party's pleading, but the adverse party's response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If the adverse party does not so respond, summary judgment, if appropriate, shall be entered against the adverse party."

You may not simply rely on your complaint to oppose this motion. You must file a written response in opposition to this motion with the Court, and send a copy of same to opposing counsel.

Pursuant to Local Rule 7.1 of the Northern District of New York, you are required to submit the following papers in opposition to this motion: (i) a **memorandum of law** (not exceeding twenty-five (25) pages in length and containing relevant factual and legal argument); (ii) **one or more affidavits** in opposition to the motion and (iii) a **short and concise statement of material facts** as to which you claim there are genuine issue in dispute. **These papers must be filed and served in accordance with the time set by Local Rule 7.1; the due date, as stated in the Notice of Motion is January 12, 2008.**

If you do not submit a short and concise statement of material facts as to which you claim there are genuine issues in dispute, all material facts set forth in the statement filed and served by the defendants shall be deemed admitted.

If you do not respond in opposition to the motion, summary judgment, if appropriate, will be entered against you. If partial summary judgment is granted against you, the portions of your case as to which summary judgment was granted will be dismissed; there will be no trial as to these portions of your complaint. If summary judgment is granted as to your entire complaint, your case will be dismissed and there will not be any trial concerning any of the aspects asserted in your complaint.

Dated: December 5, 2008

Respectfully submitted,

WARD NORRIS HELLER & REIDY LLP

s/Heidi S. Martinez

Heidi S. Martinez

*Attorneys for National Board of Medical Examiners
and Federation of State Medical Boards*

300 State Street

Rochester, New York 14614

(585) 454-0700

Of Counsel

Thomas S. D'Antonio

Ward Norris Heller & Reidy, LLP

300 State Street

Rochester, New York 14614

Pamela S. C. Reynolds

Ward Norris Heller & Reidy, LLP

300 State Street

Rochester, New York 14614

TO: C. Earl Grant, M.D. Ph.D.
P.O. Box 551
Fort Drum, NY 13602

C. Earl Grant, M.D. Ph.D.
US Army Medical Department
DHCN-Fort Belvoir
P.O. Box 1067
Fort Belvoir, VA 22060